THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

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WRIT PETITION NO : 915 of 2005

Dated: 06-09-2005

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Between:

V.L.Sivanarayana and others.

..... PETITIONERS

AND

The Government of A.P., rep. by its Secretary, Revenue Departmeent, Secretariat Buildings, Hyderabad and two others.

(3rd respondent added as per the orders of this Court dated 13-07-2005 in W.P.M.P.No.19636 of 2005)

..Respondents.

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

WRIT PETITION NO : 915 of 2005

ORDER:

This writ petition has been filed by the petitioners with a prayer to issue a writ

of mandamus declaring the action of the Sub-Registrar, Rajahmundry-second respondent in not releasing the sale deed dated 6-12-2004 executed by the Official Liquidator, High Court of Andhra Pradesh in favour of the petitioners, as illegal, arbitrary and without jurisdiction.

2. The petitioners, who are nine in number, are said to have purchased Ac:14-50 cents and structure thereon for Rs. 1,13,00,000/- from the Official Liquidator appointed in C.P.36 of 1992. The Official Liquidator executed a sale deed on 6-12-2004 and presented the same for registration before the Sub-Registrar. The Sub-Registrar referred the matter to the Collector/District Registrar under Section 47-A of the Indian Stamp Act, 1899 (For short 'the Act') for proper determination of the market value of the property. Assailing the action of the Sub-Registrar in not releasing the document, the petitioners filed this writ petition invoking the jurisdiction under Article 226 of the Constitution of India.

3. A counter-affidavit has been filed by the second respondent. It is stated in the counter-affidavit that the document has been referred to the Collector under Sub-section 6 of Section 47-A of the Act. I deem it appropriate to refer para 3 of the counter-affidavit and it is thus:

> " It is true that the Official Liquidator has presented the sale document dated 6-12-2004 before me on 16-12-2004 along with stamp duty and registration charges payable on Rs.1,13,00,000/- and after receiving the said document having prima-facie felt that the market value as per the guidelines was not reflected in the document to avoid stamp duty and registration charge, I referred the matter under Section 47-A of the Indian Stamp Act to the Collector (District Registrar) for proper determination of the market value of the property in question in my proceedings dated 20-12-2004. Even before the District Registrar has taken any action for the determination by issuing notice to the petitioner, the petitioner has filed the present writ petition for a direction to the respondents to release the document after due registration. The contention of the petitioner that as the sale is held by the official liquidator under the directions of Company Court, the value shown in the document alone has been taken, as market value for purpose of registration cannot be accepted. In the clear language under proviso to Sub-Section 6 of Section 47-A and Sub-Section 1 of Section 47-A of the Indian Stamp Act, even according to the averments of the petitioner, the bid auction held by the official liquidator is not a open bid. It is a bid by calling sealed tenders by the person interested and the same cannot be equated to be an open bid of auction."

4. Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue appearing for the respondents.

5. Learned counsel for the petitioners submits that since sale document has been executed by the Officfial Liquidator, consideration mentioned therein should be treated as proper market value. In support of his submission, reliance has been placed on the decision of our High Court in ***G. USHARANI V. JOINT SUB-REGISTRAR.***

6. Learned Government Pleader for Revenue submits that since the matter has been referred to the Collector for adjudication, liberty is required to be given to him to adjudicate the matter and if the finding is adverse to the petitioners, they are at liberty to challenge the same.

7. A fact remains that the document has been sent to the Collector under sub-section 6 of Section 47-A of the Act. In such situation, I deem it appropriate to direct the Collector –third respondent to dispose of the reference made to him by the Sub-Registrar-second respondent, within three weeks from the date of receipt of a copy of this order.

7. Accordingly, the Writ Petition is disposed of. No order as to costs.

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06-09-2005

Note:

CC by three days.

(Bo)

sj